

FOR THE DISTRICT OF NEW MEXICO

**JOSE E. GONZALES, PETER J. GOMEZ,
EMELINA GRANT, TERESITA GARCIA
MARTINEZ and LEONORA ERNESTINA
MONTTOYA,**

Plaintiffs,

No. 00-CV-60 WPJ/RS ACE

v.

**UNITED STATES OF AMERICA, and BILL
RICHARDSON, Secretary of the
DEPARTMENT OF ENERGY,**

Defendants.

PAJARITO PLATEAU HOMESTEADERS, INC.,

Plaintiffs,

No. 01-CV-588 MCA/RLP ACE

v.

UNITED STATES OF AMERICA, et al.

Defendants.

**SPECIAL MASTER'S FINDINGS OF FACT AND CONCLUSIONS OF LAW
CONCERNING INTEREST PAYMENTS TO SUCCESSFUL CLAIMANTS**

I. FINDINGS OF FACT:

All of the Findings of Fact and Conclusions of Law previously filed and approved by court order are incorporated herein as if fully set forth. Based upon those findings and information provided to the Special Master by the Department of Energy, the following specific findings of fact are made regarding the payment of interest to eligible claimants:

1. The Pajarito Plateau Homesteaders Compensation Fund created by Section 3147 of PL. 108-375 (Hereinafter, "the Legislation"), was \$10,000,000.00. The amount of interest earned by the fund in accordance with Section 8(g) of the Legislation, from the date of enactment of the Act until the date when final disbursement of the amount in the Fund occurred, was \$753,589.99 as of September 1, 2007, as shown by Exhibit 6, attached hereto;
2. All attorney's fees and expenses awarded by the Court have been paid, except for the award of \$5,000.00 awarded by the Court to attorney Bryan Beidensheid, which payment was only recently submitted to the Special Master for transmittal to the Department of Energy for Payment;
3. The persons identified in Exhibit 5, attached hereto were previously adjudicated by Court Order to be all of the eligible claimants in this case, and, as of September 1, 2007, have been paid their pro-rata award in this settlement procedure according to the formula set forth in the initial Findings of Fact and Conclusions of Law filed April 14, 2006, with the total paid to all eligible claimants being \$7,613,129.34;
4. No claim was ever submitted for Tracts B19A and B19B, which, on "The Map" allegedly belonged to Walter Grottenthaler, nor were any eligible claimants ever located, even though diligent search was made by the Pajarito Plateau Homesteader's Association, Class Counsel and the Special Master. According to the formula for payment, eligible claimants for that tract would have received \$186,878.35;
5. The amount of interest earned, less all expenses, attorney's fees, Special Master's outstanding fees and expenses, and the amount available for Tracts B19A and B19B, and therefore available for distribution to eligible claimants is \$500,069.02. The amount of that interest to be paid to each successful claimant is based upon the formula: $I/T = P, \times C = A$, where I (the available interest for distribution of \$500,069.02.), divided by T, (total successful claimant award amount of \$7,613,129.34), equals P (distribution percentage, 0.065685 %), times C (each successful claimant's award), equals A (the amount of pro-rata interest due each successful claimant).

II. CONCLUSIONS OF LAW

Based upon these Findings, the Special Master makes the following conclusions of Law:

1. The amount of \$186,878.35 which was available for distribution to claimants of Tracts B19A and B19C shall be retained in the Treasury as miscellaneous receipts, pursuant to Section 7 of the Legislation, and the amount of interest

available for payment to successful eligible claimants shall be reduced by that amount;

2. Those persons named in Exhibit 5 are, as successful eligible claimants, entitled to receive their pro-rata share of \$500,069.02, which is the interest earned by the fund, less all attorney's fees and expenses awarded by the Court, all Special Master's fees and expenses, and the amount set forth in Conclusion 1 above, as provided by section (g)(2) of the Legislation, in the amounts shown for each of them in Exhibit 5, according to the formula for payment set forth in Finding number 5, above.

III. SUBMITTAL STATEMENT FOR THESE FINDINGS AND CONCLUSIONS

Upon the filing of these Findings of Fact and Conclusions of Law, any claimant who disagrees with these findings has, under section D4 of the Settlement Procedure, thirty days to object to these Findings and Conclusions. If no objection is made, upon the Court's order approving the findings, the interest amount calculated for the successful claimants therein will be submitted for payment. In the event objections are made, the Court can provide the relief to claimants it deems proper for a final resolution of the dispute. The Special Master is available to respond to any order the Court should enter at that time.

Respectfully Submitted,

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JOSEPH E. CALDWELL
SPECIAL MASTER

I hereby certify that Raymond Hamilton, Assistant United States Attorney, has advised that the United States Attorney's Office takes no position about this, or any other matter in this settlement procedure, and that Class Counsel Representative, Mathew Buck of the Keating, Meuthing and Klekamp PLL Law Firm has approved the filing of these Findings of Fact and Conclusions of law on behalf of Class Counsel.



JOSEPH E. CALDWELL